

December 2, 2021

**BY HAND**

Judge Jesse M. Furman  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**RE: *United States v. Joshua Adam Schulte, S3 17 Cr. 548 (JMF)***

Dear Judge Furman:

I write to notify the Court of significant delays receiving Orders and motions from the government, issues regarding government phone calls, ongoing issues with MCC's law library that may prevent me from meeting imposed deadlines, and an electronic filing request.

A. Significant mail delays of over two weeks

Regarding the first issue, I previously recorded mail delays from the MCC from two weeks to 60 days. In denying my motion to compel the MCC to deliver all legal mail and court correspondence promptly, Judge Crotty noted that "the Government itself has already made arrangements to ensure delivery of its own correspondence with Schulte 'within approximately one to two days.'" Dkt. 515 at 1-2. In lieu of sending letters by mail, the government started delivering them to MCC (and now MDC) legal for prompt delivery to me. Through this process I began receiving letters and orders within 2-3 days. The government is no longer doing this, and has reverted back to simply mailing me things at the MDC. So, once again, I am seeing significant delays receiving Court Orders, filings, and government motions from the government. On November 29 and November 30, 2021, I received no less than 9 Certified Mail from AUSA Lockard from November 15, 2021 (15, 15, 16, 16, 18, 18, 19, 23, 24). The government should receive the Certified Mail receipts indicating these dates soon. Receiving letters from the government over two weeks late is unacceptable, and I ask the Court to order the government to revert back to its prior practice and ensure I receive mail "within one to two days" as they promised Judge Crotty. I note that many of these delays have now effected my response time and I am no longer able to meet the Court's imposed deadlines.

The first letter, postmarked 11/15 (Ex. A) contained the Government's Opposition to Defendant's Motion to Dismiss Counts Three and Four And For Internet Access, Dkt. 586. The Court imposed a deadline of December 8, 2021. I can no longer meet this deadline (See D. for requested extension)

The second letter, postmarked 11/15 (Ex. B) contained the Court's order, Dkt. 585, instructing the parties to confer with the CISO regarding the classified protective orders. The government has yet to reach out to me regarding this issue, but I will write the government today and request a time to confer.

The third letter, postmarked 11/16 (Ex. C) contained the government's 11/15 letter, Dkt. 591, which I also received from the government through the old process (none others were).

The fourth letter, postmarked 11/16 (Ex. D) contained the Court's order, Dkt. 592, in response to the aforementioned letter.

The fifth letter, postmarked 11/18 (Ex. E) contained the government's 11/16 letter, Dkt. 593.

The sixth letter, postmarked 11/18 (Ex. F) contained the Court's 11/17 letter, Dkt. 594, instructing standby counsel to file the redacted motions.

The seventh letter, postmarked 11/19 (Ex. G) contained the Court's 11/18 endorsement, Dkt. 600, which was taken care of by my standby counsel; the Court's 11/18 endorsement, Dkt. 601, ordering the government to respond to my Count Three Dismissal Letter; the government's 11/18 letter, Dkt. 603; and the government's motion to dismiss three interlocutory appeals in the Court of Appeals. I note for the Court that, by the time I received this letter, my response motion was already considered late. This is absurd. How am I supposed to litigate any case when, by the time I receive the government's letters and motions, my response is already late?

The eighth letter, postmarked 11/23 (Ex. H) contained the government's 11/22 motion in opposition to the cellphone suppression, Dkt. 615; and the government's 11/22 letter, Dkt. 616, in response to my request to dismiss Count Three.

Finally, the ninth letter, postmarked 11/24 (Ex. I) contained the government's letter to me regarding the proposed CIPA schedule. I note for the Court that I received this letter one day after the Court's deadline. I ask for additional time to review the government's proposal and discuss the issues with standby counsel.

I have not received anything else from the government, so if the Court has issued rulings or the government has filed anything beyond what I received November 29<sup>th</sup> and 30<sup>th</sup>, I do not have them.

Due to the government's incompetence or deliberate attempts at sabotage, I have missed or will miss 3 Court deadlines, 1 deadline in the Court of Appeals, and potentially multiple other deadlines. This is outrageous. Why did the government decide to abandon the previous working process and its obligation to ensure delivery within 1-2 days? I ask the Court to order the government to revert back to delivering documents to MDC legal so that I receive updates contemporaneously and can properly litigate. I also ask the Court to ensure the government complies with this obligation for documents filed in the Court of Appeals.

#### B. Recording Attorney Calls

Next, Judge Crotty ordered the parties to meet to discuss and confer about issues. The government hijacked this Order and now use it as a means of recording the conversations to use against me at trial.<sup>1</sup> This is absurd. The government should not treat me any differently from defense counsel. I ask the Court to order the government to stop recording the party phone calls, and that the information discussed cannot be used against me. Alternatively, I will no longer participate in these future calls.

#### C. Law Library Issues

Third, I wanted to note my continued issue with law library access at the MDC. While every other MDC inmate has 24-7 access to the law library, my access is severely restricted to one hour each day during the week (2 hours if I sacrifice my recreation time), minus SCIF days, when I miss the morning allotment of law library time. During the week of November 22, 2021,

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<sup>1</sup> The government notified me the calls were recorded but did not respond to standby counsel's requests for clarification; I did not realize that this was atypical until consulting with standby counsel

the law library computer was inoperable and the MDC did not fix it. I was unable to access the law library that entire week. The following week, they finally fixed it on Monday, but on Wednesday the keyboard locked (it is not a regular keyboard like the rest of the institution, but rather, a flat roll-up, difficult-to-use keyboard that can be locked by the MDC), and the new lieutenants did not know the special key code to unlock the keyboard. I waited from 9am to 3pm, but the MDC never unlocked the keyboard.

In light of these severe restrictions and ongoing issues accessing the law library, I ask the Court for funds to purchase an offline subscription to Westlaw or Lexis Nexis for install on my laptop so I can have equal access to the law library as the MDC general population, most of which are not *pro se*.

D. Extension of time to file replies to Internet Motion and Motion to Dismiss MCC Counts Motion

The original deadline to file these replies was December 8, 2021. Despite the government's failure to provide me its opposition until now, I ask the court for two additional days, until Friday, December 10, 2021, to file my replies—provided I am able to access the law library at the MDC; if I am unable to do so next week, then I will alert the Court on Thursday, December 9, 2021, and ask for additional time.

E. Request CD/DVD filings through MDC

We initially discussed this issue at the court appearance, but no solution was reached. I ask now for a slight modification—I ask that I utilize the reverse of the government's process for delivering documents to me through MDC; that I give MDC lieutenants or unit managers a CD/DVD, and then they route it through the legal department to then email the Court, my standby counsel, and/or the government, who then docket the item. Since the MDC does not allow me to print documents from my laptop and to use the mail system is to navigate the Oregon Trail, I believe this is a simple solution to my persistent filing problem. Otherwise, I have extreme difficulty filing motions and letters as I must wait until SCIF days when I meet with standby counsel to deliver the documents for filing.

Respectfully submitted,

Joshua Adam Schulte



# EXHIBIT A

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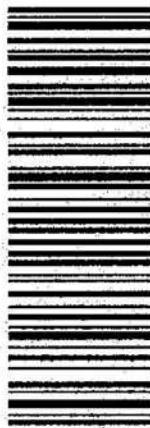
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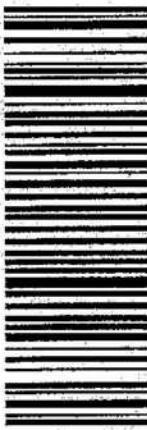
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